



**SUDBURY CONSERVATION COMMISSION**  
**Meeting Minutes of May 18, 2020**

Present: Thomas Friedlander, Chair; David Henkels, Vice Chair; Bruce Porter; Richard Morse; Mark Sevier; Charlie Russo; Kasey Rogers (6:36 PM); Ken Holtz, Association Member and Lori Capone, Conservation Coordinator

T. Friedlander opened the meeting under the MA Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw at 6:00 PM.

**Minutes:**

On motion by D. Henkels, seconded by B. Porter, the Commission voted unanimously, by roll call vote, to approve the May 5, 2020 minutes.

On motion by R. Morse, seconded by D. Henkels, the Commission voted unanimously, by roll call vote, to approve the April 13, 2020 minutes.

**Wetland Applications:**

**Notice of Intent: Massachusetts Bay Transportation Authority Right-of Way, DEP File #301-1287:**

T. Friedlander opened the Notice of Intent hearing for Eversource/Department of Conservation and Recreation for the installation of a new 115kV underground electrical transmission line and the construction of a portion of the Mass Central Rail Trail, from the existing Sudbury Substation to the Hudson town line, along the inactive Massachusetts Bay Transportation Authority Right-of-Way, in Sudbury, MA, under the State Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw, continued from April 13, 2020.

At the request of the applicant, D. Henkels made of motion to continue this hearing to June 15, 2020. C. Russo seconded the motion. Motion carried 6-0 (K. Rogers recused).

**Notice of Intent: 22 Buckmaster Road, DEP File #301-1277:**

T. Friedlander opened the Notice of Intent hearing for Danforth and Gina Sullivan for the installation of an in-ground swimming pool and patio within wetlands jurisdiction pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw, continued from February 10, 2020 and March 9, 2020.

Coordinator Capone explained that she has not received the mitigation plan yet and has not heard from the applicant and recommended that the hearing be continued to June 1, 2020.

On motion by B. Porter, seconded by D. Henkels, the Commission voted unanimously, by roll call vote, to continue the hearing to June 1, 2020.

**Notice of Intent: 50 Woodmere Drive, DEP #301-12\*\*:**

T. Friedlander opened the Notice of Intent hearing for Emilie and Bayard Huck for the installation of landscaping and lawn restoration in the Riverfront Area and Buffer Zone, pursuant to the Wetlands Protection Act and the Sudbury Wetlands Administrative Bylaw.

Josh Brown of Lynch Landscaping presented the project to the Commission for the applicant who was also in attendance. Mr. Brown explained that the homeowner is seeking permission to reloom the existing yard and seed it with a native grass mixture as well as replacing the existing foundation plantings. There will be no expansion of the lawn. The foundation plantings have been revised to include both native and non-native species. The plan also now includes the planting of 15 native shrubs between the lawn and wetland resource area to mitigate for the allowance of planting non-native species around the foundation.

The Commission discussed any herbicides or pesticides that would be used to reestablish the lawn. Mr. Brown explained that by using a native seed mix, it minimizes the need for fertilizers. The Commission requested the applicant provide the information of the seed mix and any chemicals that may be applied for review prior to installation.

Coordinator Capone said that DEP is reviewing the project but has not yet issued a file number. Given that plantings should be installed prior to June 15, Coordinator Capone recommended the Commission close the hearing and issue an Order of Conditions pending receipt of the file number.

There were no abutters present to speak on this application.

On motion by K. Rogers, seconded by R. Morse, the Commission voted unanimously, by roll call vote, to close the hearing. On motion by C. Russo, seconded by R. Morse, the Commission voted unanimously to issue an Order of Conditions pending receipt of a DEP number.

**Request for Determination of Applicability: Cold Brook Crossing, 16 North Road:**

Chris Claussen, Attorney Bill Henchy, and Matt Leidner of CDG Engineering attended tonight's meeting.

Atty. Henchy explained that the project has been modified since meeting with the Commission in December. They are no longer proposing to use the existing driveway to the cell tower for emergency access, but the Wastewater Treatment Plant and associated grading is still proposed within an altered outer riparian zone and outer buffer zone.

In response to an inquiry received from Ralph Tyler of 1 Deacon Lane, Atty. Henchy explained that the wastewater treatment plant is designed such that the leachate meets drinking water standards upon leaving the facility. The leachate will travel 200-250 feet towards the adjacent wetlands but will not impact the resource area as the water is potable.

D. Henkels asked what type of soils and peak rate were found on the site. Atty. Henchy explained that the site is comprised of coarse sand with groundwater found 40-60 feet below grade. They will not need to import material for the treatment plant. The Board of Health has reviewed and has no concerns with the proposed system. Atty. Henchy said he has also been working with Allan Cathcart, Concord's Water/Sewer Superintendent, to ensure Concord's water system is not impacted by the proposed development. DEP has reviewed and approved the Geohydrological Study and the project has also been reviewed and approved under the MEPA.

C. Russo asked the applicant to explain how the location of the treatment plant was determined. Mr. Claussen showed the plan of the development and explained the location was dictated by the existing topography so that the system can be gravity fed.

In response to question by B. Porter regarding the design of the treatment plant, Mr. Claussen explained that the system includes a membrane system, a pre-treatment tank, UV treatment and charcoal treatment, so that the leachate upon leaving the treatment plant contains no suspended solids, viruses, or bacteria.

On motion by B. Porter, seconded by M. Sevier, the Commission voted unanimously to issue a Negative Determination of Applicability with the condition that the erosion controls be inspected prior to commencement of work and that a letter be submitted following completion of work within jurisdiction that the project was constructed in accordance with the plan and Determination.

**Amendment Request: 159 Concord Road, DEP #301-1241:**

T. Friedlander opened the hearing to amend the existing Order of Conditions to include enclosing the existing deck, and installing a shed and walkway, within the 100-foot buffer zone.

David Donald presented his revised plans. Mr. Donald explained that they would like to convert the deck that was permitted under this Order into a porch. A dry well will be installed to infiltrate run-off from the porch. To limit exposure to ticks, they would like to install a brick walkway from the porch to the driveway. They also would like to install a shed for lawn equipment with an enclosure for the trash and recycling bins and a decorative fence to mark the lot corner.

The Commission discussed the potential of moving the shed outside the 25-foot offset to wetlands and whether the fence would be expanded in the future. As this site has had numerous projects, the Commission confirmed that there are no additional projects proposed. Mr. Donald concurred.

On motion by D. Henkels, seconded by R. Morse, the Commission voted unanimously to close the hearing and issue an amendment to the existing Order of Conditions

**Certificate of Compliance:**

**72 Wagonwheel Road, DEP #301-1184:**

Coordinator Capone explained that this Order was for the construction of an addition. Mitigation was in the form of lawn removal, invasive species removal, and installation of native plantings which has been completed and the required reporting on the mitigation has been submitted. Coordinator Capone recommended a Certificate of Compliance be issued for this project.

On motion by C. Russo, seconded by D. Henkels, the Commission voted unanimously, by roll call vote, to issue a Certificate of Compliance for this Order.

**33 Maynard Road: DEP #301-1098:**

Coordinator Capone explained that this Order was the result of a violation for moving mitigation plantings from a wetland restoration area to other locations on site. David Burke, Wetlands Resource Specialist, attended the meeting on behalf of the homeowner, who was also in attendance. Mr. Burke explained that the plantings were relocated back into the restoration area and he has determined that more than 90% of the restoration area is comprised of native species, as required. Coordinator Capone recommended the issuance of a Certificate of Compliance.

On motion by R. Morse, seconded by M. Sevier, the Commission voted unanimously, by roll call vote, to issue a Certificate of Compliance for this Order.

**Emergency Certification:**

**33 Maynard Road: Hazard Tree Removal:**

David Burke, Wetlands Resource Specialist, explained that the site has a number of large white pine trees towering over the house. The homeowner had requested these trees be removed 2 ½ years ago, based on an arborists' evaluation, but were told by the prior Coordinator that they would not be able to remove them until receiving a Certificate of Compliance on the restoration of the mitigation area discussed in the

above matter. Last week two of these trees fell and destroyed the pool and almost hit the house. They will be filing a Notice of Intent to provide mitigation for removal of these trees.

On motion by D. Henkels, seconded by K. Rogers, the Commission voted unanimously, by roll call vote, to ratify the Emergency Certificate for removal of hazard trees, with the requirement that a Notice of Intent is submitted by June 1, 2020.

#### **Other Business:**

##### **Right of Entry and License Agreement – Landham Brook Conservation Land**

Coordinator Capone explained that an RDA was recently reviewed by the Commission for 197 Landham Road for after-the-fact approval for vegetation removal and restoration of a portion of the 200-foot riverfront area and 100-foot buffer zone on the property. This work also required a stormwater permit with the Planning Board. Whereas the homeowner is using the Town parking lot for Landham Brook Conservation Land to get in and out of the site with equipment, the Planning Board requested the homeowner obtain a License Agreement with the Town to allow this use of town land for access and to repair any damage that might occur. The Commission discussed the timeline for work to be completed and the materials that were stockpiled on the Town land. Lindsay Philbrick, homeowner, was present and confirmed that work is anticipated to be completed this summer and that materials they placed on the Town land would be removed.

C. Russo moved to authorize T. Friedlander to enter into and execute the Right of Entry and License Agreement with Erick Stoker and Lindsay Philbrick of 197 Landham Road for the purpose of accessing their rear yard to complete their landscape project, with the requirement that any damage to the parking area and conservation land be restored to the satisfaction of the town with any cost borne by the Licensee. R. Morse seconded. All so voted by roll call vote.

##### **Assabet River National Wildlife Refuge Hunting Plan:**

Coordinator Capone disseminated a draft comment letter on behalf of the Commission in response to the proposed hunting plan for the Assabet River National Wildlife Refuge, which expands the hunting of big game (Black Bear, Coyote, and Fox) and migratory birds.

On motion by D. Henkels, seconded by C. Russo, the Commission voted unanimously, by roll call vote, to endorse this comment letter.

##### **Commission Charge:**

The Commission discussed the proposed language for the Commission's charge as revised in response to the discussion at the last meeting. The proposed charge reads, "To preserve, protect, and improve the Town's valuable water, land, plant, and animal resources for the benefit of present and future generations (under the legal authority granted under The Conservation Commission Act, by the Massachusetts Wetlands Protection Act, and by the Sudbury Wetlands Administration Bylaw); to foster community involvement in the protection and enjoyment of Sudbury's open spaces and natural resources through education and stewardship; and to balance the interests of jurisdictional projects with the public benefits provided by wetland resource areas, to guide Sudbury's future, under a fair and open public hearing process.

After some discussion, K. Rogers made a motion to accept the Commission's charge as written, seconded by D. Henkels. All so voted, by roll call vote,

On motion by B. Porter, seconded by D. Henkels, the Commission voted unanimously, by roll call vote, to adjourn the meeting at 7:15 PM.